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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,928	01/09/2002	Dah-Shiam Chiao		9600

7590

10/07/2005

Dahshiam Chiao
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EXAMINER

MCKANE, ELIZABETH L

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 10/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/043,928

Applicant(s)

CHIAO ET AL.

Examiner

Leigh McKane

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 April 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-100 is/are pending in the application.
4a) Of the above claim(s) See Continuation Sheet is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 2,11,13,28,30,32,42,51,53,68,82-85,87-90,92-95 and 97-100 is/are rejected.
7) ☒ Claim(s) See Continuation Sheet is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Continuation of Disposition of Claims: Claims withdrawn from consideration are 1,3-10,12,14,16,18,20,22,24,26,27,29,31,33,35,37,39,41,43-50,52,54,56,58,60,62,64,66,67,69,71,73,75,77 and 79.

Continuation of Disposition of Claims: Claims objected to are 15,17,19,21,23,25,34,36,38,40,55,57,59,61,63,65,70,72,74,76,78,80,81,86,91 and 96.

Claim Rejections – 35 USC § 112, 1st paragraph

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 82-85, 87-90, 92-95, and 97-100 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

With respect to claims 82, 87, 92, and 97, the specification fails to disclose a shield surrounding the corona discharge pin for focusing ionized scent molecules with wiring connecting the shield to a ground or external voltage source.

As to claims 83-85, 88-90, 93-95, 98-100, and , the specification fails to disclose a discharge pin constructed with a capillary tube or a capillary tube made of conductive materials or nonconductive materials.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2, 11, 42, and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaslon (US 2001/0048641 A1).

Kaslon teaches a scent and multimedia bearing card 12 for use with a separate scent

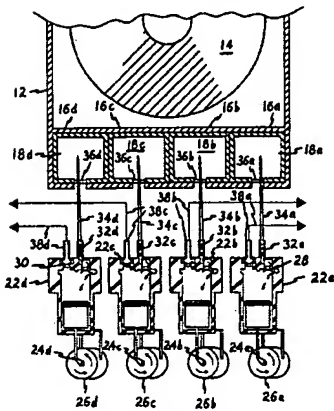


Fig. 2

release and multimedia playback system 10. The card 12 includes a scent storage medium 18a-d, an encapsulated DVD or CD 14, and scent release/playback control information (section [0038], lines 8-17). The cartridges 18a-d may contain a plurality of scents, smells, aromas, or odors. The device further includes a scent release unit 34a-d comprised of a tube connecting the reservoir to a scent release chamber

22a-d.

Kaslon does not disclose that the CD/DVD is removable from the housing structure 12. However, it is deemed obvious to one of ordinary skill in the art to do so in order to make the housing structure reuseable, making its use more economical.

5. Claims 28 and 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaslon in view of Baron et al (U.S. Patent No. 5,192,342).

Kaslon is silent with respect to an electrostatic scent release means. Baron et al teaches an apparatus for releasing a scent to an environment which can release the scent a variety of ways. These ways include a timed aerosol (as in the invention of Kaslon), a non-volatile solid carrier, ionization, or electrostatic dispersal. See col.7, lines 40-46. Therefore, it is deemed obvious to one of ordinary skill in the art to substitute other scent dispersal means for the aerosol dispenser of Kaslon.

Double Patenting

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claims 13, 28, 30, and 32 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 4, 7, 14, 20, and 23 of copending Application No. 10/436608. Although the conflicting claims are not identical, they are not patentably distinct from each other because they differ only in wording. The structure claimed in claim 10 of the present invention is encompassed by claims 1, 4, 7, 14, 20, and 23.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Objections

8. Claims 14, 16, 18, 20, 22, 24, 29, 31, 33, 35, 37, 39, 54, 56, 58, 60, 62, 64, 69, 71, 73, 75, 77, and 79 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the

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claim(s) in independent form. All of the above claims are dependent upon withdrawn claims.

They have been treated as if they are withdrawn too.

Allowable Subject Matter

9. Claims 15, 17, 19, 21, 23, 25, 34, 36, 38, 40, 55, 57, 59, 61, 63, 65, 70, 72, 74, 76, 78, 80, 81, 86, 91, and 96 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. The following is a statement of reasons for the indication of allowable subject matter: The scent release chamber of Kaslon does not have an upwards facing opening covered by a moveable cover, as set forth in claims 15 and 55 or an oppositely charged grid, as set forth by claim 81. Furthermore, Kaslon fails to teach or suggest a corona discharge pin for creating a corona discharge, as set forth in claim 70.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

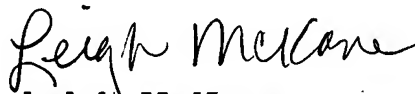
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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leigh McKane whose telephone number is 571-272-1275. The examiner can normally be reached on Monday-Thursday (5:30 am-2:00 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Kim can be reached on 571-272-1142. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Leigh McKane
Primary Examiner
Art Unit 1744

elm
30 September 2005